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Application No. 10/602,173 - - - - 2

JUL 20 2007

Remarks

Claims 25, 30, 31 and 33 are under consideration.

The rejection of claims 25 and 31 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,395,007 to Bhatnagar, *et al.* is not warranted, and is hereby traversed.

Bhatnagar, *et al.* do not show or suggest an adjustable dilator assembly as claimed. Instead, a surgical device for injecting a material into a lesion of a bony structure is shown. The present claims call for an internally threaded axial through passageway in communication with the cannula that threadably receives a probe carriage having a probe mounted thereto as defined by claim 25. Bhatnagar, *et al.* do not show the claimed arrangement of parts. As can be readily seen in FIG. 9A and 9B of the cited reference, the threads in housing 56 receive a Luer connector, see for example, col. 7, lines 56-57, or plug member 72a (FIG. 9I). The claimed, elongated, externally threaded probe carriage also is not shown by this reference.

Impact extension member 72a shown in FIG. 9I is not a probe carriage. See, for example, col. 8, lines 38-44. The impact extension member 72a is removable and does not carry cannula 12, or guide wire 2, as can be readily seen in FIG. 9I. Instead, member 72a is attached to handle 56. Also, the threads in handle 56 for engaging member 72a do not define an axial through passageway as claimed.

Guide wire 2 of Bhatnagar *et al.*, provided with a pointed or tapered tip 4, is not a probe extendable through the cannula and mounted for adjustable axial movement within the housing and the cannula in response to manipulation of the probe carriage, as claimed. Guide wire 2 is exactly what it purports to be, a guide wire for the cannula. See, for example, col. 5, lines 40-49, and col. 6, lines 7-13. The guide wire is positioned first and the cannula follows.

As noted above, impact extension member 72a (col. 8, lines 38-44) is not a probe carriage, but serves an entirely different purpose. Member 72a does not even carry guide wire 2. It is important to note that Bhatnagar, *et al.* do not teach that guide wire 2 is carried by or secured to impact extension member 72a. No securement or attachment, removable or permanent, of guide wire 2 to member 72a is shown by the reference. Absent such securement or attachment, member 72a cannot and does not manipulate guide wire 2

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even if, *arguendo*, guide wire 2 is deemed to be a probe, which it is not. The blunt end 28 of guide wire 2 is only received within a socket provided in member 72a when member 72a is screwed into handle 56. See also col. 8, lines 18-23, where Bhatnagar, *et al.* clearly teach that proximal end 72 is removed to expose the proximal end of guide wire 2 for ease in movement, etc. These express teachings of Bhatnagar, *et al.* are diametrically opposite the Examiner's own, unwarranted interpretation of this reference.

The anticipation rejection clearly is unwarranted, and should be withdrawn.

The rejection of claims 30 and 33 under 35 U.S.C. §103(a) as unpatentable over Bhatnagar, *et al.* in view of Frassica is unwarranted, and is hereby traversed.

The pertinent fields of endeavor clearly are not the same. While Bhatnagar, *et al.* show a medical surgical instrument, Frassica does not.

Moreover, Bhatnagar, *et al.* show a sharp tip suitable for penetrating bone (col. 5, lines 36-38) whereas tip 134 of Frassica has to be atraumatic for its intended use as a catheter (col. 17, lines 43-55).

Claims 30 and 33 are dependent on claim 25 and are distinguishable over Bhatnagar *et al.* for the same reasons as those advanced hereinabove. Neither are these particular claims suggested by the combined teachings of Bhatnagar, *et al.* and Frassica. The latter reference merely shows a catheter that must be rotated to advance. The helical external threads shown engage tissue, not an internally threaded housing. See for example, col. 15, lines 16-21.

The features shown by Frassica are not combinable with the Bhatnagar *et al.* device in any event. The fields of endeavor are clearly different – osteoplasty vs. catheterization of genitourinary and gastrointestinal passages. Catheter 132 of Frassica is not capable to function as wire guide 2 in Bhatnagar, *et al.* Also, tapered tip 4 of cannula 6 shown by Bhatnagar, *et al.* is intended to penetrate bone (col. 5, lines 38-40), thus one of ordinary skill, when seeking to improve on the Bhatnagar, *et al.* device, would not have substituted the rounded tapered tip 134 of Frassica for bone penetration tip 4, or selected a pliable material of construction.

Bhatnagar, *et al.* do not show a dilator assembly as contended by the Examiner but a surgical device for use in osteoplasty. Frassica, on the other hand, shows a urinary catheter. These two references have been selected impermissibly from diverse fields using

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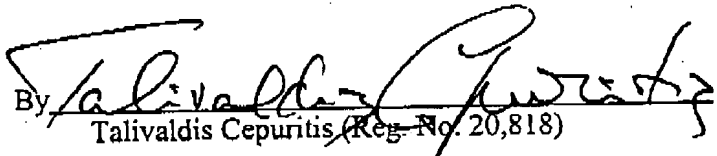
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applicants' own teachings as a guide. The attempted rejection of claims 30 and 33 is not justified by the record and should be withdrawn.

The present discussion is believed to dispose of all issues in this case and to place this application in condition for allowance. Early passing of this application to issue is solicited.

Respectfully submitted,

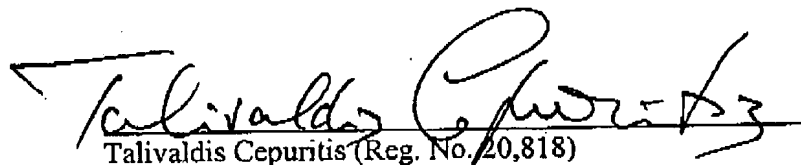
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